

**LAW ENFORCEMENT AND CRIMINAL JUSTICE SUBCOMMITTEE  
RECOMMENDATIONS FOR FY 2009-10  
TO THE PROVISO SUBCOMMITTEE**

**SECTION 37 - P24 - DEPARTMENT OF NATURAL RESOURCES**

**37.5**      **AMEND** (Proportionate Funding) Directs that a proportionate share of funds, at \$15,000 per district, be allocated to each of the State's 46 Soil and Water Conservation Districts for general assistance to the district's programs. Directs that available funds above the \$15,000 will be apportioned by DNR based on local needs and priorities as determined by the board. Directs that no districts shall receive these funds unless the county or counties within the district have appropriated at least \$300 to the district for the same purposes.

**SUBCOMMITTEE RECOMMENDATION:** AMEND proviso to delete the specific \$15,000 per district amount. Direct that the amount apportioned will be based on the amount of agency funds available and priorities as determined by the board. Increase the minimum funding required from the county from \$300 to \$1,000. *Allocations will continue to be proportionately allocated based on the amount of funds available. The amendment will also give the agency flexibility to assess mid-year reductions to this line item and offset reductions to other marine, game and natural resource management and protection programs.* Fiscal Impact: No impact on the General Fund. Funding will be based on the amount appropriated. \$690,000 was allocated last fiscal year. Requested by Department of Natural Resources.

**37.5.** (DNR: Proportionate Funding) Each of South Carolina's 46 soil and water conservation districts shall receive a proportionate share of funding set aside for Aid to Conservation Districts ~~at \$15,000 per district~~ for general assistance to the district's program. Available funding ~~above \$15,000~~ for each district will be apportioned by the Department of Natural Resources based upon ~~local needs~~ *agency funds* and priorities as determined by the board. No district shall receive any funds under this provision unless the county or counties wherein the district is located shall have appropriated no less than ~~three hundred~~ *one thousand* dollars to the district from county funds for the same purposes.

**37.16**      **DELETE** (Interstate Water Negotiations and Savannah River Basin Compact Study) Directs the department to use their appropriated funds for expenses associated with continuing discussions on creating an interstate compact between S.C. and Georgia concerning the Savannah River basin and to develop legislation for that purpose. Requires the DNR director to prepare and submit a report on the expenditure of these funds to the Senate Finance and House Ways and Means Committees by December 31, 2008.

**SUBCOMMITTEE RECOMMENDATION:** DELETE proviso. *The work has been completed.* Fiscal Impact: No impact on the General Fund. Requested by Department of Natural Resources.

**37.16.** (DNR: Interstate Water Negotiations and Savannah River Basin Compact Study) ~~From funds appropriated in Part IA, Section 37 of this act, the director of the department shall provide for expenses associated with technical and legal consultants in order for the department to continue discussions with the Director of the Georgia Department of Natural Resources and other appropriate state and federal agencies in South Carolina and Georgia for the purpose of considering the creation of an interstate compact between South Carolina and Georgia concerning the Savannah River basin and for developing legislation for that purpose. The director of the department shall concurrently ensure that as the State takes positions in the Federal Energy Regulatory Commission relicensing procedures on the Yadkin/Pee Dee and Catawba Rivers, they are well founded and consistent with the State's positions on the Savannah River. The study shall include, but not be limited to, the consideration of current state river basin compact laws, published reports on the Savannah River basin, impacts of removal of water from the basin in both the State of South Carolina and the State of Georgia,~~

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~~as well as water quantity, water quality, ecological, economic, agricultural, and recreational uses of the basin. The study will allow for input from parties interested in the long term management of the Savannah River basin. The director of the department shall prepare a report on the expenditure of these funds and shall submit it to the Senate Finance Committee and the House Ways and Means Committee by December 31, 2008.~~

**SECTION 45 - E20 - ATTORNEY GENERAL'S OFFICE**

- 45.4 DELETE** (Elder and Vulnerable Adults Abuse Reports) Directs the Long Term Care Ombudsman Program and the Adult Protection Services Program to forward reports of abuse, neglect, or exploitation of elders or vulnerable adults, as defined by the Omnibus Adult Protection Act, to the Attorney General. Directs the Attorney General and these entities to enter into memoranda of understanding to determine which reports shall be sent, the time frame, and any other process that is needed. *Memorandum of Understanding has been signed.* Fiscal Impact: No impact on the General Fund. Requested by Attorney General's Office.

~~**45.4.** (AG: Elder and Vulnerable Adults Abuse Reports) The Long Term Care Ombudsman Program and the Adult Protection Services Program shall forward to the Attorney General's Office reports of abuse, neglect, or exploitation of elders or vulnerable adults as defined pursuant to the Omnibus Adult Protection Act. The Attorney General and these investigative entities shall enter into memoranda of understanding to determine which reports shall be sent to the Attorney General's Office, the time frame to be met and any other process needed to meet the requirements of this proviso.~~

**SECTION 47 - E23 - COMMISSION ON INDIGENT DEFENSE**

- 47.4 AMEND** (Post Conviction Relief Payments) Directs the court to order payment of all fees and costs in non capital Post Conviction Relief cases from funds appropriated to the Office on Indigent Defense for defense of indigents in such cases. Directs that the rate of compensation for appointed attorneys not exceed \$40 per hour for time spent out of court and \$60 per hour for time spent in court, or on the basis of a set (flat) fee. Directs that the payment method and amount of the set (flat) fee will be determined by the Commission on Indigent Defense. Directs that compensation and costs not exceed \$1,000 in any single case and be paid from funds appropriated to the Office of Indigent Defense for defense of indigents represented by court-appointed, private counsel in non-capital Post Conviction Relief cases.
- SUBCOMMITTEE RECOMMENDATION:** AMEND proviso to delete specific references to "defense of indigents." Fiscal Impact: No impact on the General Fund. Requested by Commission on Indigent Defense.

~~**47.4.** (INDEF: Post Conviction Relief Payments) The court shall order payment of all fees and costs in non capital Post Conviction Relief cases from funds appropriated to the Office of Indigent Defense for the defense of indigents in non capital Post Conviction Relief cases. Any attorney appointed shall be compensated at a rate not to exceed forty dollars per hour for time expended out of court and sixty dollars per hour for time expended in court, or on the basis of a set (flat) fee. The method of payment and amount of set (flat) fee will be determined by the Commission on Indigent Defense. Compensation and costs shall not exceed one thousand dollars in any single case and shall be paid from funds appropriated to the Office of Indigent Defense for the defense of indigents represented~~ representation ~~by court-appointed, private counsel, in non capital Post Conviction Relief cases.~~

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- 47.5 AMEND** (Civil Court Appointments) Directs the expenditure of Civil Court Appointments funds to reimburse court appointed private attorneys for Civil Court Appointments including Termination of Parental Rights, Abuse and Neglect, Probate Court Commitments, Sexually Violent Predator Act, and Post Conviction Relief. Prohibits Civil Court Appointments funds from being transferred or used for any other purpose. Directs that Civil Court Appointments funds shall also be used to reimburse private attorney's appointed by the Family Court to serve as guardians ad litem, where volunteer appointments cannot be made. Establishes a reimbursement rate based of \$50 per hour or on the basis of a set (flat) fee, directs that the payment method and amount of the set fee will be determined by the Commission on Indigent Defense, and limits reimbursement to \$2,000 per case. Provides guidelines for reimbursement to exceed these limits. Directs the court to authorize defendant's attorneys to obtain investigative, expert, or other services if it is found in ex parte proceedings that such services are reasonable and necessary and to order the Office of Indigent Defense to pay such fees and expenses, not to exceed \$500, as the court considers appropriate. Provides guidelines for payment to exceed these limits. Requires indigent defense vouchers to be reviewed pursuant to procedures established by the commission and directs the commission to provide a copy of the procedures to the Senate Finance and House Ways and Means Committees. Authorizes a portion of Civil Court Appointment funds to be used by the commission to retain, on an contractual basis, the services of attorneys qualified to handle civil court appointments and directs that their services reimbursed in accordance with applicable provisos and statutes.
- SUBCOMMITTEE RECOMMENDATION:** AMEND proviso to specify that indigent defense vouchers must be reviewed "and paid" pursuant to procedures "and policies" established by the commission and direct that copies of the policies also be provided to the Senate Finance and House Ways and Means Committees. *To require compliance with agency policies and procedures.* Fiscal Impact: No impact on the General Fund. Requested by Commission on Indigent Defense.

**47.5. (INDEF: Civil Court Appointments)** The funds appropriated under "Civil Court Appointments" shall be used for Civil Court Appointments including Termination of Parental Rights, Abuse and Neglect, Probate Court Commitments, Sexually Violent Predator Act, and Post Conviction Relief (PCR) to reimburse court appointed private attorneys and for other expenditures as specified in this provision. Civil Court Appointments funds may not be transferred or used for any other purpose.

A portion of the funds appropriated under "Civil Court Appointments" shall be used for "Termination of Parental Rights" cases and "Abuse and Neglect" cases to reimburse private attorneys who are appointed by the Family Court to serve as guardians ad litem, where volunteer appointments cannot be made and to represent guardians ad litem, children, or parents under the provisions of S.C. Code Sections 20-7-110 et seq., 20-7-1570 et seq., 20-7-1695 (A)(2) et seq., 20-7-7205 et seq., and 20-7-8705 (4)(a) et seq.; for "Probate Court Commitment" cases to reimburse private attorneys who are appointed by the Probate Court to represent indigent persons; and for "Sexual Violent Predator" cases to reimburse private attorneys who are appointed by the Circuit Court pursuant to Sections 44-48-10, et seq., to represent indigent persons. When private counsel is appointed pursuant to these provisions, counsel shall be reimbursed a reasonable fee to be determined on the basis of fifty dollars per hour or reimbursement may also be made on the basis of a set (flat) fee. The method of payment and the amount of the set fee will be determined by the Commission on Indigent Defense. Reimbursement shall not exceed two thousand dollars for any case under which such private attorney is appointed. Reimbursement in excess of the hourly rate and limit set forth herein is authorized only if the court certifies, in a written order with specific findings of fact, that reimbursement in excess of the rates or limit is necessary to provide reimbursement

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adequate to ensure effective assistance of counsel and reimbursement in excess of the limit is appropriate because the services provided were reasonably and necessarily incurred. Upon a finding in ex parte proceedings that investigative, expert, or other services are reasonable and necessary for the representation of the defendant, the court shall authorize the defendant's attorney to obtain such services on behalf of the defendant and shall authorize the payment, from funds available to the Office of Indigent Defense, of fees and expenses not to exceed five hundred dollars as the court considers appropriate. Payment in excess of the five hundred dollar limit is authorized only if the court certifies, in a written order with specific findings of fact, that payment in excess of the limit is appropriate because the services provided were reasonable and necessarily incurred to provide adequate defense. Payments shall be made from funds appropriated for this purpose from the Commission of Indigent Defense.

Indigent defense vouchers authorized in this provision must be reviewed and paid pursuant to procedures and policies established by the Commission on Indigent Defense. The commission shall provide a copy of the established procedures and policies to the Senate Finance Committee and the House Ways and Means Committee.

A portion of the funds appropriated under "Civil Court Appointments" may be used by the Commission on Indigent Defense to retain, on a contractual basis, the services of attorneys qualified to handle civil court appointments, to be reimbursed in accordance with applicable provisos and statutes.

**47.caa ADD (Defense of Indigence Civil Action Application Fee) SUBCOMMITTEE RECOMMENDATION:** ADD new proviso to require a person to whom counsel has been provided in a termination of parental rights (TPR), abuse and neglect, or any other civil court action to execute an affidavit that they are financially unable to employ council and include in the affidavit all of the person's assets. Direct that if the person has some assets, but not enough to employ council, the court is authorized to order a person to pay those assets or portion of them to the Commission on Indigent Defense. Require a \$40 application fee from every person who executes such affidavit and to apply for a waiver. Direct the clerk of court or other appropriate official to collect the application fee and remit the proceeds to the Public Defender Application Fund on a monthly basis. Require that the monies be deposited in an interest bearing account separate from the general fund and be used only to provide indigent defense services. Direct that the Commission on Indigent Defense administer the monies. Require that a record be maintained by the clerk of court or other appropriate official of all persons who apply for representation and the disposition of the application and to provide this information as well as the amount of funds collected or waived to the Commission on Indigent Defense on a monthly basis. Direct a juvenile's parents or legal guardian to execute the affidavit based on their financial status and be responsible for paying any fee and to be informed of this requirement in writing. State that this provision shall not restrict or hinder a court from appointing counsel in emergency proceedings or where existing statutes don't provide sufficient time to complete the application process. Direct that appointment of counsel creates a claim against the assets and estate of the person provided counsel or the parents or legal guardians of a juvenile in an amount equal to the costs of representation as determined by a voucher submitted by the appointed counsel and approved by the court, less that amount that the person pays to the appointed counsel. Direct that such claim be filed with the clerk of court in the county where the person is assigned counsel. Direct that filing a claim shall not constitute a lien against real or personal property unless, at the court's discretion, part or all of such claim is reduced to judgment by appropriate court order, after serving the person with at least 30 days' notice that judgment will be entered. Direct that when a claim is reduced to judgment, it has the same effect as judgments, except as modified by this provision. *Indigent applicants requiring representation in General Sessions and*

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Magistrate courts are currently required to pay a \$40 application for appointment of counsel. Fiscal Impact: PENDING. The commission indicates this fee would increase revenue approximately \$100,000 per year. Requested by Commission on Indigent Defense.

47.caa. (INDEF: Defense of Indigents Civil Action Application Fee) (A) A person to whom counsel has been provided in any termination of parental rights (TPR), abuse and neglect, or any other civil court action in this state shall execute an affidavit that the person is financially unable to employ counsel and that affidavit shall set forth all of the person's assets. If it appears that the person has some assets but they are insufficient to employ private counsel, the court, in its discretion, may order the person to pay these assets or a portion thereof to the Commission on Indigent Defense.

(B) A forty dollar application fee for appointed counsel services must be collected from every person who executes an affidavit that they are financially unable to employ counsel. The person may apply to the court, the clerk of court, or other appropriate official for a waiver or reduction in the application fee. If it is determined that the person is unable to pay the application fee, the fee may be waived or reduced, provided that if the fee is waived or reduced, the clerk or appropriate official shall report the amount waived or reduced to the trial judge and the trial judge shall order the remainder of the fee paid by a time payment method or such method as the trial judge deems appropriate. The clerk of court or other appropriate official shall collect the application fee imposed by this section and remit the proceeds to the Commission on Indigent Defense on a monthly basis. The monies must be deposited in an interest-bearing account separate from the general fund and used only to provide for indigent defense services. The monies shall be administered by the Commission on Indigent Defense. The clerk of court or other appropriate official shall maintain a record of all persons applying for representation and the disposition of the application and shall provide this information to the Commission on Indigent Defense on a monthly basis as well as reporting the amount of funds collected or waived.

(C) In matters in which a juvenile is brought before a court, the parents or legal guardian of such juvenile shall execute the above affidavit based upon their financial status and shall be responsible for paying any fee. In matters concerning juveniles, the parents or legal guardians of said juvenile, shall be advised in writing of this requirement at the earliest stage of the proceedings against said juvenile.

(D) Nothing contained above shall restrict or hinder a court from appointing counsel in any emergency proceedings or where existing statutes do not provide sufficient time for an individual to complete the application process.

(E) The appointment of counsel, as herein before provided, creates a claim against the assets and estate of the person who is provided counsel or the parents or legal guardians of a juvenile in an amount equal to the costs of representation as determined by a voucher submitted by the appointed counsel and approved by the court, less that amount that the person pays to the appointed counsel.

(F) Such claim shall be filed in the office of the clerk of court in the county where the person is assigned counsel, but the filing of a claim shall not constitute a lien against real or personal property of the person unless, in the discretion of the court, part or all of such claim is reduced to judgment by appropriate order of the court, after serving the person with at least thirty days' notice that judgment will be entered. When a claim is reduced to judgment, it shall have the same effect as judgments, except as modified by this provision.

**47.fca ADD (Family Court Attorney Appointment Study Group) SUBCOMMITTEE RECOMMENDATION:** ADD new proviso to direct the Commission on Indigent Defense and DSS to jointly study the issue of appointing private attorneys in termination of parental

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rights and abuse and neglect cases. Direct the agencies to develop proposals to significantly reduce or eliminate members of the private bar from being appointed. Direct that proposals be presented to the Chairmen of the Senate Finance and House Ways and Means Committees by October 1, 2009. *Improve the process of appointing private attorneys to family court actions.* Fiscal Impact: No impact on the General Fund. Requested by Commission on Indigent Defense.

*47.fca. (INDEF: Family Court Attorney Appointment Study Group) The Commission on Indigent Defense and the Department of Social Services shall jointly study the issue of the appointment of private attorneys in termination of parental rights and abuse and neglect cases. The agencies shall develop proposals to significantly reduce or eliminate members of the private bar from being assigned these appointments. The agencies shall present proposals to the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee no later than October 1, 2009.*

- 47.ept**    **ADD** (Exempt Pass-Through Funds) **SUBCOMMITTEE RECOMMENDATION:** ADD new proviso to direct that funds distributed by the commission to the Legal Services Corporation in accordance with Section 14-1-204 [DISTRIBUTION OF FILING FEE PAID FOR FILING COMPLAINTS OR PETITIONS IN CIVIL ACTIONS IN A COURT OF RECORD] shall not be considered part of the commission's budget for purposes of calculating budget reductions. *Agency acts as a conduit to distribute the funds to this organization.* Fiscal Impact: No impact on the General Fund. These other funds generated by filing fees. Requested by Commission on Indigent Defense.

*47.ept. (INDEF: Exemption for Pass Through Funding) The funds distributed by the Commission on Indigent Defense to the Legal Services Corporation in accordance with Section 14-1-204 of the 1976 Code shall not be considered part of the commission's budget for purposes of calculating budget reductions.*

- 47.rr**    **ADD** (INDEF: Reporting Requirement) **SUBCOMMITTEE RECOMMENDATION:** ADD new proviso to direct Circuit Public Defenders to provide, in a manner and form as the agency head requires, information and data concerning caseloads, dispositions, and other information as required by the agency head or General Assembly. Directs the agency to withhold payments and transfers to Circuit Public Defenders who are not in compliance with the reporting requirements. Fiscal Impact: No impact on the General Fund.

*47.rr. (INDEF: Reporting Requirement) Circuit Public Defenders shall provide, in a manner and form as the agency head requires, information and data concerning caseloads, dispositions, and other information as required by the agency head or General Assembly. The agency shall withhold payments and transfers to Circuit Public Defenders who are not in compliance with the agency reporting requirements.*

**SECTION 51 - N04 - DEPARTMENT OF CORRECTIONS**

- 51.27**    **AMEND** (Work Release Transportation Fee) Authorizes the department to charge a \$1 per day transportation fee to work release program participants when such transportation is provided by the department. Directs that monies collected be credited to the department and used solely to fund transportation for work release participants and for work release program vehicle replacement.

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**SUBCOMMITTEE RECOMMENDATION:** AMEND proviso to change the authorized transportation fee from “\$1” to “\$2.” *There are 450 work release participants at seven centers.* Fiscal Impact: PENDING. Requested by Department of Corrections.

**51.27.** (CORR: Work Release Transportation Fee) The South Carolina Department of Corrections is authorized to charge a ~~\$1.00~~ \$2.00 per-day transportation fee to participants in the work release program only when such transportation is provided by the department. Monies collected shall be credited to the South Carolina Department of Corrections, and utilized solely to fund transportation of work release participants and vehicle replacement for the work release program.

**51.ibp** **ADD** (Inmate Barbering Program) **SUBCOMMITTEE RECOMMENDATION:** ADD new proviso to exempt inmate barbers in the Inmate Barbering Program from the licensing requirements of Section 40-7-30 [BARBERS AND BARBERING LICENSURE REQUIREMENT]. *Prior to 1997 inmate barbers were exempt from this statute. This exemption will prevent the need to expend funds to hire barbers outside the prison system.* Fiscal Impact: The department states the estimated recurring cost to bring in licensed barbers would be \$840,000. Requested by Department of Corrections.

*51.ibp. (CORR: Inmate Barbering Program) Inmate barbers in the Inmate Barbering Program at the Department of Corrections, shall not be subject to the licensing requirement of Section 40-7-30 of the 1976 Code.*

**51.xia** **ADD** (Executed Inmate Autopsy) **SUBCOMMITTEE RECOMMENDATION:** ADD new proviso to direct that superseding Section 17-7-10 [CORONERS OR SOLICITORS SHALL ORDER AUTOPSIES; AUTOPSY TO BE ORDERED UPON DEATH OF PERSONS IN PENAL INSTITUTIONS] to the extent necessary, as well as any other conflicting provisions of law, an autopsy shall not be conducted when an inmate is executed by the Department of Corrections pursuant to a valid Supreme Court order. *An autopsy for an executed inmate is not needed.* Fiscal Impact: The department indicates a savings of \$895 per autopsy. Requested by Department of Corrections.

*51.xia. (CORR: Executed Inmate Autopsy) Superseding Section 17-7-10 of the 1976 Code, to the extent necessary, as well as any conflicting other applicable provisions of law, whenever an inmate shall be executed by the Department of Corrections pursuant to a valid order of the Supreme Court of South Carolina, an autopsy shall not be conducted.*

**51.rec** **ADD** (Recoupment of Expenses Associated with Inmate Cremation) **SUBCOMMITTEE RECOMMENDATION:** ADD new proviso to direct that superseding Section 24-3-570 [] as necessary, as well as any other conflicting provisions of law, if the department incurs expenses for cremating and disposing of an unclaimed deceased inmate, the costs associated the cremation, including transportation, may be recouped from the deceased inmate’s E.H. Cooper account if the funds are available. *To offset expenses.* Fiscal Impact: The department indicates that based on 125 deaths per year at \$450 per cremation, \$56,250 would be recouped. Requested by Department of Corrections.

*51.rec. (CORR: Recoupment of Expenses Associated with Inmate Cremation) Superseding Section 24-3-570 of the 1976 Code as necessary, as well as any other conflicting applicable provisions of law, if the Department of Corrections incurs expenses for cremating and disposing of an unclaimed deceased inmate, the department may recoup all associated*

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costs of cremation, including transportation, through the deceased inmate's E.H. Cooper account, providing funds are available.

**SECTION 52 - N08 - DEPARTMENT OF PROBATION, PAROLE AND PARDON SERVICES**

**52.9**     **AMEND** (Offender Drug Testing Fee) Authorizes the department to charge offenders who challenge the findings of a drug test administered by the department a fee, not to exceed \$50, to have a drug test analyzed by a lab. Requires the fee to be waived if it is determined that the offender is indigent. Authorizes the department to retain the fee to offset the cost of the lab test and to carry forward unexpended funds to be used for the same purpose.

**SUBCOMMITTEE RECOMMENDATION:** AMEND proviso to authorize the department to charge for all drug testing, not just those whose findings are challenged. Direct that the fee be retained to offset the cost of the drug testing rather than of the lab test. *The department suspended drug testing due to budget reductions. This amendment will allow offender drug testing to resume.* Fiscal Impact: PENDING. Requested by Department of Probation, Parole, and Pardon Services.

**52.9.** (DPPP: Offender Drug Testing Fee) The department may charge offenders a fee set by the department, not to exceed \$50, for the purpose of ~~having a drug test testing analyzed by a lab for offenders challenging the findings of a drug test administered by the department.~~ If it is determined that the offender is indigent, this ~~fee~~ fee must be waived. The fee shall be retained by the department to offset the cost of ~~the lab test~~ *drug testing*. All unexpended funds at year-end may be retained and carried forward by the department to be expended for the same purpose.

**52.pse**     **ADD** (Public Service Employment Set-Up Fee) **SUBCOMMITTEE RECOMMENDATION:** ADD new proviso to authorize the department to charge an adult offender placed under its jurisdiction, who is ordered to public service employment by the court, a \$25 Public Service Employment Set-Up fee and require the department retain the fee and use it for their supervision process. *To offset the cost of offender supervision.* Fiscal Impact: PENDING. Requested by Department of Probation, Parole, and Pardon Services.

**52.pse.** (DPPP: Public Service Employment Set-Up Fee) *In addition to any other fee, the department may charge an adult offender placed under the jurisdiction of the department, who is ordered to public service employment by the court, a twenty-five dollar Public Service Employment set-up fee. The fee must be retained by the department and applied to the department's supervision process.*

**SECTION 89 - X90 - GENERAL PROVISIONS**

**89.101**     **AMEND** (GP: Mandatory Furlough) Authorizes agency heads to institute a mandatory employee furlough program of not more than ten working days in a fiscal year in which the general funds appropriated for a state agency, institution, or department are less than the general funds appropriated in prior fiscal year or whenever the General Assembly or Budget and Control Board implements an across the board reduction. Directs that all employees in an agency or within a designated department or program be included regardless of source of funds or place of work and direct that if the entire agency is affected, the agency head must be included. Authorizes the agency head to schedule furlough days or portions of days, but prohibits the agency from closing completely. Directs that during furlough, benefits that require employer and employee contributions are to be the responsibility of the agency if



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coverage would otherwise be interrupted and contributions that only require employee contributions are the responsibility of the employee. Directs that placement of an employee on furlough is not grievable or appealable under the State Employee Grievance Act. States that if an agency, department or institution reduction is due solely to the General Assembly transferring or deleting a program this provision does not apply. Directs that the implementation of a furlough program will be on an agency by agency basis. Authorizes agencies to allocate an employee's reduction in pay over the balance of the fiscal year for payroll purposes. Directs the B&C Board Office of Human Resources to promulgate guidelines and policies as necessary to implement this provision. Directs state agencies to report furlough information to the B&C Board Office of Human Resources.

**SUBCOMMITTEE RECOMMENDATION:** AMEND proviso to delete the requirement that a furlough include all employees in the agency or within a designated area and that the agency head must also be furloughed. Instead direct that agency heads shall determine employees to be furloughed. State that departments, agency heads, and employees are immune from suit and liability, officially and personally for actions taken during the invocation of this provision. Require agency heads, prior to implementing a furlough, to submit a report to the B&C Board, Office of Human Resources on the pay bands and demographics of employees affected by the planned furlough. *To give agency heads maximum flexibility while eliminating the right to grievance procedures or suits through the courts. Allow agencies to manage budget reductions without causing harm or disruption to the provision of services.* Fiscal Impact: Will vary by agency. Requested by Department of Corrections.

**89.101.** (GP: Mandatory Furlough) In a fiscal year in which the general funds appropriated for a state agency, institution, or department are less than the general funds appropriated for that state agency, institution, or department in the prior fiscal year, or whenever the General Assembly or the Budget and Control Board implements an across-the-board budget reduction, agency heads may institute employee furlough programs of not more than ten working days in the fiscal year in which the deficit is projected to occur. ~~The furlough must be inclusive of all employees in an agency or within a designated department or program regardless of source of funds or place of work. The furlough must include all classified and unclassified employees in the designated area. If the furlough includes the entire agency, the furlough must include the agency head.~~ Agency heads shall determine employees to be included in this program. Departments, agency heads, and employees shall be immune from suit and liability, officially and personally, for actions taken during the invocation of this proviso. Scheduling of furlough days, or portions of days, shall be at the discretion of the agency head, but under no circumstances should the agency close completely. During this furlough, affected employees shall be entitled to participate in the same state benefits as otherwise available to them except for receiving their salaries. As to those benefits that which require employer and employee contributions, including but not limited to contributions to the South Carolina Retirement System or the optional retirement program, the state agencies, institutions, and departments will be responsible for making both employer and employee contributions if coverage would otherwise be interrupted; and as to those benefits which require only employee contributions, the employee remains solely responsible for making those contributions. Placement of an employee on furlough under this provision does not constitute a grievance or appeal under the State Employee Grievance Procedure Act. In the event the reduction for the state agency, institution, or department is due solely to the General Assembly transferring or deleting a program, this provision does not apply. The implementation of a furlough program authorized by this provision shall be on an agency-by-agency basis. Agencies may allocate the employee's reduction in pay over the

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balance of the fiscal year for payroll purposes regardless of the pay period within which the furlough occurs. The Budget and Control Board, Office of Human Resources shall promulgate guidelines and policies, as necessary, to implement the provisions of this proviso. State agencies shall report information regarding furloughs to the Office of Human Resources of the Budget and Control Board. Prior to implementation of the furlough, the agency head must submit a report to the Budget and Control Board, Office of Human Resources on the pay bands and demographics of employees affected by the planned furlough.

- 89.106 AMEND** (Offset Corrections Budget Reduction) Authorizes the Governor to transfer agency earmarked and restricted accounts designated as “special revenue funds” as defined in the Comptroller General’s records from DMV to the Department of Corrections to offset any FY 08-09 budget deficit that has been officially recognized by the Budget and Control Board.  
**SUBCOMMITTEE RECOMMENDATION:** AMEND proviso to change “2008-09” to “2009-10.” Fiscal Impact: No impact on the General Fund.

**89.106.** (GP: Offset Corrections Budget Reduction) The Governor shall be authorized to transfer agency earmarked and restricted accounts designated as “special revenue funds” as defined in the Comptroller General’s records from the Department of Motor Vehicles to the Department of Corrections to offset any Fiscal Year ~~2008-09~~ 2009-10 budget deficit that has been officially recognized by the Budget and Control Board.